



ឯកសារដែលបានបញ្ជាក់ថាជាកម្រិតតាមច្បាប់  
CERTIFIED COPY/COPIE CERTIFIÉE CONFORME

ថ្ងៃ ខែ ឆ្នាំ ដែលបានបញ្ជាក់ (Certified Date/Date de certification):

28 / MAY / 2009 ព្រះរាជាណាចក្រកម្ពុជា

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé

du dossier: SANN RADA

ជាតិ សាសនា ព្រះមហាក្សត្រ

អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Kingdom of Cambodia

Nation Religion King

Extraordinary Chambers in the Courts of Cambodia

Royaume du Cambodge

Chambres Extraordinaires au sein des Tribunaux Cambodgiens

Nation Religion Roi

អង្គជំនុំជម្រះសាលាដំបូង

Trial Chamber

Chambre de Première instance

ឯកសារដើម  
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL

ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/Dats de reception):

28 / MAY / 2009

ម៉ោង (Time/Heure): 15:25

មន្ត្រីទទួលបន្ទុកសំណុំរឿង/Case File Officer/L'agent chargé

du dossier: SANN RADA

WRITTEN RECORD OF PROCEEDINGS - "DUCH" TRIAL

PUBLIC

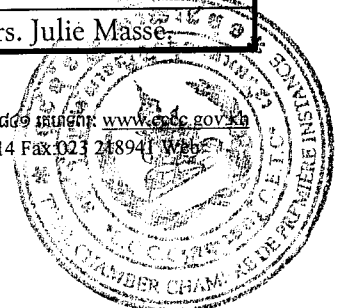
Case File N° 001/18-07-2007-ECCC/TC

19 May 2009

Substantive Hearing – Day 17

Prepared by: SE Kolvuthy and Natacha WEXELS-RISER

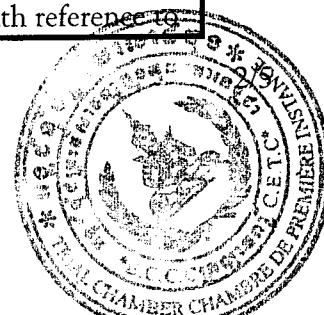
<u>Attendance Record</u>
<b>Before:</b> Judge NIL Nonn (President), Judge Silvia CARTWRIGHT, Judge YA Sokhan, Judge Jean-Marc LAVERGNE, Judge THOU Mony.
<b>Reserve Judges:</b> Judge YOU Ottara (Reserve) and Judge Claudia FENZ (Reserve)
<b>Greffier/s:</b> Mr. Matteo Crippa, Mr. Duch Phary, Mrs. Se Kolvuthy, Ms. Natacha Wexels-Riser.
<b>OCP:</b> Mr. Tan Senarong, Mr. Alexander Bates, Mr. Pich Sambath, Mr. Stuart Ford; Mr. Pak Chanlino.
<b>Accused:</b> Mr. Kaing Guek Eav alias Duch.
<b>Defence for the Accused:</b> Mr. Kar Savuth, Mr. François Roux, Mrs. Héleyn Uñac, Mr. Chan Ravuth, Mrs. Lucille Nattiez.
<b>Lawyers for the Civil Parties:</b> Ms. Silke Studzinsky, Mr. Kong Pisey, Ms. Moch Sovannary, Mrs. Elisabeth Rabesandratana, Ms. Ty Srinna, Mr. Alain Werner, Mr. Hong Kim Suon, Yong Panith.
<b>Courtroom Officer/CMS:</b> Uch Arun.
<b>Others:</b> Mrs. Maryvonne Maniacky, Mr. San Kiri, Mr. Sam Makara, Mrs. Julie Masse.



<u>General court times</u>		
Day	Start time: 9:10	Finish time: 16:25
Recess am	Start time: 10:45	Finish time: 11:30
Recess	Start time: 11:35	Finish time: 14:30
	Total Court Time:	3 hours 35 min

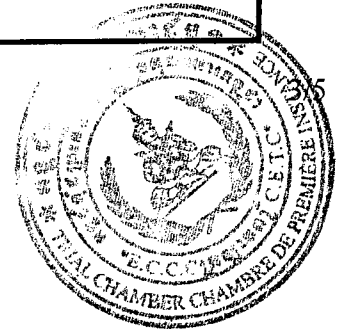
<u>Proceedings</u>			
Type of Issue	Raised By	Start time	Finish time
Questioning of Expert Craig Etcheson	TC	9:15	
Decision on objections raised by the Defence	TC	14:30	14:45
Questioning of Expert Craig Etcheson	TC	14:45	15:42
Request for guidance on Rule 87(2) and (3) and comments from the parties	OCP	15:42	16:20

<u>Summary of Proceedings:</u>
<p><b>Questioning of Expert Craig Etcheson by the Chamber on the Issue of Implementation of CPK Policy</b>  The Chamber continued the questioning of Expert Craig Etcheson.  The Defence objected to the mention by the expert of documents D73, D56-Annex 1, E5/2.21, as these were placed on the case file after the completion of the Expert's report.</p> <p><b>Decision on objections raised by the Defence</b>  The Chamber issued an oral decision on the objections raised by the Defence (see below).</p> <p><b>Questioning of Expert Craig Etcheson by the Chamber on the Issue of Implementation of CPK Policy</b>  The Chamber continued the questioning of Expert Craig Etcheson.</p> <p><b>Request for Guidance on Rule 87(2) and (3)</b>  The Co-Prosecutors requested guidance on how Rule 87(3) can practically be followed and how they can put documents before the Chamber given the volume of the evidence. They suggested that the parties submit an index with a written summary of all documents. Then an oral summary could be made in court of each document type, rather than summarising every single document. They indicated that a written submission would be filed to this effect.  The Civil Parties requested to be provided with the written submission but generally supported the Co-Prosecutors' submission.  The Defence expressed doubt that all these documents were needed and, with reference to</p>



Rule 85, suggested that the Co-Prosecutors be requested to make a selection of relevant documents.

<b>Record of Rule 87.3 Proceedings</b>				
TC Ref Number	OCIJ Ref Number	Name/Description	Class. (S, C or P)	Remarks
E3/38	D55	Co-Prosecutors' Request to admit a compilation list of S21 Prisoners	Public	00172353-00172255, 00172349-00172352
E3/38-Annex A	D55-Annex A	S-21 Prisoner List (1975-1978)	Public	00171429-00171798
E3/39	IS 13.42	Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 1 March 1977	Public	00183949-00183955
E3/40	D64-Annex 29	Annex 29: Report from SOU Met to Kaing Guek Eav	Public	00002409-00002409
E3/32	D2-15	Written Record of Analysis by Craig C. Etcheson, Investigator of the Office of Co-Prosecutors, footnotes 285 and 286	Public	00146872 Already in E3 folder. No notification needed.
E3/41	D73	"List of Security Personnel Arrested and Sent to S-21", Annex to "Written Record of Interview of Duch by CIJ on 06-05-2008"	Public	00209180-00209182 ONLY
E5/2.21	None	S-21 Confession of ACHAR KANG	Public	00284015-00284019, 00294500-00294504
E3/42	D56-Annex 1	Annex 1: Entitled "About Names of Persons Who Accomplished and were Implicated in CHAP Nam's History."	Public	00170595-00170601
E3/27	IS 9.2	Constitution of Democratic Kampuchea of 14 December 1975	Public	00184833- 00184839, 00089841-00089852, 00012644- 00012659. Already in E3 folder. No notification needed.
E3/43	IS 13.13	Document on Conference I of Legislature I of the People's	Public	00184048-00184078



		Representative Assembly of Kampuchea, 11-13 April 1976		
E3/44	IS 13.8	Minutes of Meeting on Base Work 8 March 1976	Public	00182628-00182634

**Oral Orders/Decisions:****I. Decision on objections raised by the Defence**

1) The trial chamber is not bound by the indication given to the parties of the scope of the testimony or report of an expert.

*Reasons:*

The trial chamber and the parties have the right to ask questions that the trial chamber considers relevant. It follows that, when answering such questions, the Expert is not bound by his/her previous written statement or report. It also follows that an expert is not obliged to file a supplementary written report.

2) The general rule is that documents should be available in all 3 languages of the court in order to be put before the chamber. However, the trial chamber will accept reference to documents which are available in Khmer and one other language of the court.

*Reasons:*

- a) there are Khmer speakers representing all parties and in the trial chamber;
- b) translation resources are limited and the material in the case file is extensive;
- c) according to rule 21, the trial chamber has the duty to conduct a fair trial within a reasonable time;

There will be exceptions to this rule, one of which is where a document is referred to and no prior notice has been given, any party may object to its admissibility or seek more time to give it further consideration.

3) Any translation will be accepted by the court unless there are objections concerning accuracy or inconsistencies between various versions. Such objections must specify concrete examples.

The court wishes to remind the parties that a document including those referred to by an expert must be read out or summarized in order to be considered put before the chamber.

*Disposition:*

The objection by the Defence concerning the scope of Prof. Etcheson testimony, that he



ought to have filed a supplementary report, and that the translation of a document might not have been prepared by the Interpretation and Translation Pool of the ECCC are rejected.

Document D56, namely the S-21 Confession of Chab Nam, has no French translation and reference to it is unexpected. The Defence can elect to seek more time to consider that document or ask for it to be ruled inadmissible at this stage of the trial.

The trial chamber asked the Defence to specify, in light of this ruling, whether it maintains its objection to the reference of documents D2-15 Annex C of the Introductory Submissions, N°39, and N°30 and if so to give specific reasons for such objection by 9am tomorrow morning.


II. The Chamber decided that Document D2-15, Annex C, No.39 should not be referred to until clarifications were brought by the Co-Prosecutors.

III. Order to take the Accused to the Detention Facility and bring him back to court on 20 May 2009.

#### Orders for Adjournment of Hearing

Adjournment of Hearing: The hearing will resume on Wednesday, 20 May 2009 at 10:30.

Phnom Penh,  
28 May 2009


  
 Greffier: SE Kolvuthy      Greffier: Natacha WEXELS-RISER